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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,039	09/15/2003	Isaak Volynsky	MAT 3H2	1665
23581	7590	12/20/2005	EXAMINER	
KOLISCH HARTWELL, P.C. 200 PACIFIC BUILDING 520 SW YAMHILL STREET PORTLAND, OR 97204			LOWEN, ALYSSA	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/663,039

Applicant(s)

VOLYNSKY, ISAAK

Examiner

Alyssa M. Lowen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/15/03, 2/22/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: See Continuation Sheet.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statements (IDS) submitted on 9/15/03, 2/22/05 and 4/1/05 are in compliance with the provisions of 37 CFR 1.97 and 37 CFR 1.98.

Accordingly, the information disclosure statements are being considered by the examiner.

### ***Priority***

2. Applicant's claim for the benefit of a prior-filed application (60/410598) under 35 U.S.C. 119(e) is acknowledged. Applicant has complied with all conditions for receiving the benefit of an earlier filing date.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6, 8-9, 13-15, 25-29, 31-34 and 37-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Miura (5989658). With regard to claims 1-5, 25-29 and 31-33, Miura discloses a high volume insert for an injection-molded toy figure having a body portion (311, 315, 321 or 327) configured to form an inner supporting structure of an appendage of the toy figure (Fig. 29), which occupies 70% of the volume of an associated portion of the appendage (Figs. 26 & 29). The maximum diameter of the insert extends 75% across a diameter of the associated portion of the appendage

(Fig. 29). The insert also has at least one engagement portion for pivotably engaging another portion of the toy figure (Fig. 29). The toy figure has a torso and limbs (Fig. 29) having a soft flesh-like outer layer (column 17 lines 62-64) molded over an inner skeleton including a high volume insert. Regarding claims 6 and 34 the body portion is configured to at least partially conform to an outer surface of the appendage (Fig. 29). In regard to claim 8 the body portion can include a plurality of stabilization pegs (227) for stabilizing the insert within a mold (Fig. 26). Regarding claim 9 the engagement portion is configured to form a pivotable connection with another portion of the toy figure (Fig. 29). Regarding claim 13 the insert has a reinforcement ridge for supporting the engagement portion formed by a raised hook portion on an end of the insert (Fig. 29). With regard to claims 14-15 and 37-38 the insert (321 or 327) has a first engagement portion for engaging the torso portion of the toy figure and a second engagement portion for engaging a limb portion (311 or 315) of the toy figure where the engagement portions include semicircular edges that rotate smoothly within an outer covering of the toy (Fig. 29).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 16-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hastey (6494763). Hastey discloses a high-volume insert for a skeleton of an injection-

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molded toy figure having a first body segment (72) and a second body segment (78) detachably joined with the first segment (Fig. 9). Also included is an engagement portion for engaging another portion of the toy figure (Fig. 5). Hastey does not disclose expressly that joining the two segments forms a hollow body of the insert and that the first body segment includes a cylindrical hollow dowel and the second segment includes a hollow cylindrical boss for joining the segments. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to make insert hollow and use a dowel and boss connection means because Applicant has not disclosed that making the insert hollow or the use of the dowel and boss to connect the two parts provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with a solid insert and a tab attached to the second segment and a slot on the first segment to join the two parts together because it provides for an insert that is able to support a movable toy figure. With regard to claims 17-19 the insert occupies 70% of the volume of an associated portion of the skeleton (Figs. 4 & 5). Regarding claim 20 the insert extends at least 70% across an associated diameter of a limb of the figure (Fig. 1). In regard to claim 21 the insert has a first engagement portion for engaging a torso portion of the toy figure and a second engagement portion for engaging a limb portion of the toy figure (Fig. 3). Regarding claim 22 the engagement portion forms a pivotable connection with another component of the toy figure (Fig. 3). Regarding claim 23 the engagement portion includes a planar tab and a cylindrical connector (Fig. 9).

7. Claims 7 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miura in view of Dahl (3284947). The device of Miura discloses the basic inventive concept substantially as claimed with the exception of the insert being frustoconical in shape. However, Dahl shows a toy figure with an insert that is frustoconical shaped (12L) showing this feature to be old in the art. It would have been obvious to one of ordinary skill in the art from the teaching of Dahl to have an insert with a frustoconical shape in order to give a more realistic appearance and shape to the doll.

8. Claims 10-12, 30 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miura in view of Piotrovsky (4470784). The device of Miura discloses the basic inventive concept as applied to claims 1 and 31 above, substantially as claimed with the exception of the engagement portion including a cylindrical boss protruding from a tab having a convex surface. Piotrovsky discloses a cylindrical boss (36) for pivotably connecting an insert to another portion of the toy figure attached to a tab (34) having a convex surface for supporting the boss (Fig. 2). It would have been obvious to one of ordinary skill in the art from the teaching of Piotrovsky to have the engagement portion include the cylindrical boss in order to pivotably connect an appendage to a figure toy so that the appendage would be movable.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Lowen whose telephone number is 571-272-2684. The examiner can normally be reached on M-F (8-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eugene Kim can be reached on 571-272-4463. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AML



EUGENE KIM  
PRIMARY EXAMINER

Continuation of Attachment(s) 6). Other: IDS: Paper No(s)/Mail Date 4/1/05.